

LS 5-1431A

16 July 1955

MEMORANDUM FOR: Deputy Director (Support)
SUBJECT : Air Conditioners for Windowless Rooms

1. The memorandum of 17 June 1955 from the Acting SSA/DDS to the Deputy Director (Support), attached, was referred to this Office for an opinion on the propriety of expending Agency funds to procure air conditioning for four windowless rooms. These rooms were originally intended as storage space but present over-crowding requires their use for office purposes. It is further understood that the need for ventilation cannot be met by shifting available equipment because a type of equipment is required in these rooms which we do not presently have.

2. Under PL 763, 77th Congress (40 U.S.C.A. 317), as amended, there is no authority for the procurement of such equipment except by, and with the funds of, the General Services Administration. The General Accounting Office has expressed the view that windowless rooms are not outside the scope of the statute, and that they would be forced to take exception to any expenditure of CIA vouchered funds for this purpose.

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3. We are advised by [redacted] that, although no specific request has been made to the General Services Administration for the provision of the equipment here discussed, a communication within the last week from the General Services Administration (in connection with a CIA request for replacement of unrepairable equipment returned to GSA) stated that no air-conditioning equipment or funds for its purchase are presently available. We could, of course, join with the General Services Administration in requesting a specific appropriation from the Congress, but such a course would be awkward and would not assure timely provision of the needed equipment.

4. There remains for consideration the propriety of purchasing these air conditioners based on special authority available to the Director under Section 10(b) of PL 110. It is our view that this

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authority may be relied upon only in those situations where the special and unique functions of the Agency are involved. The Comptroller General has affirmed this view in connection with his decision on the proposed retroactive pay increases by the Central Intelligence Agency in 1951.

5. It must be determined then whether the purpose of the proposed purchases is in any sense unique or special to the authorized functions of the Central Intelligence Agency. Based on the facts available and presented to this Office, it appears that the air-conditioning equipment will not serve a special purpose but will make comfortable space which otherwise would probably be unusable during the summer months. We do not believe that convenience and comfort can be controlling factors in the utilization of Section 10(b) of PL 110. It is realized that without such equipment in all probability the rooms in question will be unusable during the summer. However, the Congress has declared that such equipment shall be purchased only with specific approval, and we have been unable to find any distinguishing elements that would authorize utilization of the Director's special authority.

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[redacted]
Acting General Counsel

Attachment - Memo to DD/S fr
A-SSA/DDS, 17 Jun 55,
same subject

OGC:RFB:JSW:jeb
cc: OGC chrono
 OGC subject - Equipment & Supplies-2
Legal
Vital
[redacted]

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APR 28 1955

MEMORANDUM FOR: Director of Logistics
 FROM : Chief, Real Estate and Construction Division
 SUBJECT : Request for Air Conditioning

1. This Office is in receipt of a request from the Security Office, Administration and Training Staff for the provision of suitable air conditioning in their photographic laboratory, Room 17, Building 13.

2. Under the provisions of Public Law No. 763, 77th Congress, approved 26 October 1942, and a subsequent modification set forth in Public Law No. 410, 81st Congress, approved 26 October 1949, the purchase of ventilating, temperature, and humidity control equipment is prohibited to all Federal Agencies except for special laboratory, scientific, and research purposes. Although certain specific exceptions have been made in the past, existing Agency policy does not permit purchases of air conditioning unless such expenditures are in accordance with the provisions contained in the above-mentioned Public Laws.

3. As a result of a prior investigation by this Office and the reasons outlined in the attached request from the Security Office, it is our opinion that suitable air conditioning is justified for this activity under the above law. An estimated \$2,000. will be required to cover the purchase and installation of a 3 ton package type unit necessary to air condition this space. With your approval, this Office will proceed to have the PBS purchase and install the above-mentioned equipment. The attached memorandum from the Administration and Training Staff, Security Office is submitted for your review

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Attachment: Memo dated 18 March 1955

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 Comcon: as to availability of funds.

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Comptroller

13 May 1955

Director of Logistics

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General Counsel

Date

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No Memo Dated 18 March 1958